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HELEN JIA, SARAH SORMILLON
AND ALL THOSE SIMILARLY
SITUATED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

HELEN JIA, an individual; SARAH
SORMILLON, an individual; and all those
similarly situated,

Plaintiffs,

v.

NERIUM INTERNATIONAL, LLC, a
Texas Limited Liability Company;
NERIUM SKIN CARE, INC., a Texas
Corporation, NATURAL
TECHNOLOGY, INC dba
NATURTECH; JEFF OLSON, an
individual; RENEE OLSON, an
individual; AMBER OLSON ROURKE,
an individual; MICHAEL SHOUHED, an
individual; KELLY HEFERNAN; and
DOES 1-10,

Defendants.

Case No. _____

**ORIGINAL COMPLAINT –
CLASS ACTION**

[DEMAND FOR JURY TRIAL]

1 **I. INTRODUCTION TO THE CASE**

2 1. Nerium International, LLC (“Nerium”) and their conspirators
3 represented to plaintiffs Helen Jia and Sarah Sormillon (collectively, the
4 “Plaintiffs”) that Nerium provides a business opportunity that can build “a dream
5 lifestyle” and that Plaintiffs could be financially independent by virtue of selling
6 Nerium’s “age-defying” creams. But in reality, these promises of riches, wealth,
7 and gifts couldn’t be further from the truth. Characterized by some of its former
8 employees as a scam and a cult, Nerium touts that it has generated one billion
9 dollars in cumulative sales after just four years. These sales are based on the
10 recruitment of new brand partners into the pyramid scheme that Nerium has
11 amassed.

12 2. Plaintiffs did not make money as promised. As with the case of
13 thousands of Nerium distributors before and after them, the Plaintiffs failed.
14 Plaintiffs and those similarly situated, failed even though they were committed and
15 put in the time and effort. They failed because they were doomed from the start by a
16 Nerium marketing plan that systematically rewards recruiting distributors over the
17 sale of products.

18 3. A significant percentage of Nerium distributors (otherwise
19 characterized by Nerium as brand partners) average net losses. In 2014 for example,
20 only 1.4% of Nerium Brand partners made gross sales of over \$10,000 which did
21 not even factor in all the expenses (and purchase of products) in the Nerium
22 opportunity. Thus, nearly all Nerium Brand Partners do not earn net profit.

23 4. Defendants run an illegal pyramid scheme. Defendants take money in
24 return for the right to sell products that are falsely advertised and do not provide the
25 health benefits promised, and reward the select few for recruiting other participants
26 into the pyramid.

27 5. Accordingly, Plaintiffs, for themselves, all others similarly situated,
28 and the general public, allege:

1 **II. TYPE OF ACTION**

2 6. Plaintiffs sue for themselves and for all persons who were Nerium
3 participants from 2010 until the present under California's Endless Chain Scheme
4 Law (California's Penal Code § 327 and California Civil Code § 1689.2),
5 California's Unfair Competition Law (Business and Professions Code §17200 et
6 seq.), False Advertising Law (Business and Professions Code §17500), and
7 Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.*
8 against all defendants for the operation and promotion of an inherently fraudulent
9 endless chain scheme.

10 **III. PARTIES**

11 7. Plaintiff Helen Jia ("Jia"), is and at all relevant times, has resided in the
12 County of Los Angeles, State of California.

13 8. Plaintiff Sarah Sormillon ("Sormillon"), is and at all relevant times, has
14 resided in the County of Los Angeles, State of California.

15 9. Defendant Nerium International, LLC ("Nerium") is a Texas limited
16 liability company that does business in the State of California and at 4004 Belt Line
17 Road, Suite 112, Addison, TX 75001.

18 10. Defendant Nerium Skincare, Inc. ("Skincare") is a Texas corporation
19 that does business in the State of California and at 4004 Belt Line Road, Suite 112,
20 Addison, TX 75001.

21 11. Defendant Jeff Olson ("Jeff") is the Chief Executive Officer of Nerium.
22 Jeff is the founder of Nerium and Marketing, Chairman, and CEO. He is at or near
23 the top of the pyramid operated and promoted by the Defendants, and he actively
24 participates in, promotes, and profits from Nerium's pyramid scheme.

25 12. Defendant Renee Olson ("Renee") is the Chief Leadership Officer of
26 Nerium. She is at or near the top of the pyramid operated and promoted by the
27 Defendants, and she actively participates in, promotes, and profits from Nerium's
28 pyramid scheme.

1 13. Defendant Amber Olson Rourke (“Amber”) is the Chief Marketing
2 Officer of Nerium. She is at or near the top of the pyramid operated and promoted
3 by the Defendants, and she actively participates in, promotes, and profits from
4 Nerium’s pyramid scheme.

5 14. Defendant Michael Shouhed (“Shouhed”) is an individual and a
6 resident of Los Angeles County, California. He actively participates in, promotes,
7 and profits from Nerium’s pyramid scheme.

8 15. Defendant Kelly Hefernan (“Hefernan”) is an individual and a resident
9 of Los Angeles County, California. She actively participates in, promotes, and
10 profits from Nerium’s pyramid scheme.

11 16. Shouhed and Hefernan were involved in promoting the Nerium
12 opportunity using the likeness of celebrities, including without limitation, Ray
13 Liotta.

14 17. Jeff, Renee, Amber, Shouhed, and Heffernan, are referred to
15 collectively hereinafter, as the “Individual Defendants.”

16 **IV. JURISDICTION AND VENUE**

17 18. Jurisdiction is conferred upon this Court because Defendants do business
18 in this judicial district, they hold themselves out and market their business opportunity
19 and products to this jurisdiction, and they actually conduct significant transactions in
20 this jurisdiction. Under Plaintiff’s California state law claims, more than 75% of those
21 affected in the class (and perhaps more persons) are residents of the State of
22 California. Jurisdiction exists over the RICO causes of action and Federal Securities
23 claim, pled in the alternative.

24 19. Venue is proper in this Court because a substantial part of the events or
25 omissions giving rise to Plaintiffs’ claims occurred here, a substantial part of the
26 property that is the subject of this action is situated here, and Defendants are subject
27 to personal jurisdiction, in this District.
28

1 20. Defendant Nerium is subject to the jurisdiction of this Court. Nerium
2 has been engaged in continuous and systematic business in California. In fact, many
3 of Nerium's representative business activities originate from California.

4 21. Nerium has committed tortious acts in this State.

5 22. Each of the Defendants named herein acted as a co-conspirator, single
6 enterprise, joint venture, co-conspirator, or alter ego of, or for, the other Defendants
7 with respect to the acts, omissions, violations, representations, and common course
8 of conduct alleged herein, and ratified said conduct, aided and abetted, or is other
9 liable. Defendants have agreements with each other, and other unnamed Director
10 co-conspirators and have reached agreements to market and promote the Nerium
11 pyramid as alleged herein.

12 23. Defendants, along with unnamed Director co-conspirators, were part of
13 the leadership team that participated with Nerium, and made decisions regarding:
14 products, services, marketing strategy, compensation plans (both public and secret),
15 incentives, contests and other matters. In addition, Defendants and unnamed co-
16 conspirators were directly and actively involved in decisions to develop and amend
17 the compensation plans.

18 24. Plaintiffs are presently unaware of the true identities and capacities of
19 fictitiously named Defendants designated as DOES 1 through 10, but will amend this
20 complaint or any subsequent pleading when their identities and capacities have been
21 ascertained according to proof. On information and belief, each and every DOE
22 defendant is in some manner responsible for the acts and conduct of the other
23 Defendants herein, and each DOE was, and is, responsible for the injuries, damages,
24 and harm incurred by Plaintiffs. Each reference in this complaint to "defendant,"
25 "defendants," or a specifically named defendant, refers also to all of the named
26 defendants and those unknown parties sued under fictitious names.

27 25. Plaintiffs are informed and believe, and thereon allege that, at all times
28 relevant hereto, all of the defendants together were members of a single association,

1 with each member exercising control over the operations of the association. Each
 2 reference in this complaint to “defendant,” “defendants,” or a specifically named
 3 defendant, refers also to the above-referenced unincorporated association as a jural
 4 entity and each defendant herein is sued in its additional capacity as an active and
 5 participating member thereof. Based upon the allegations set forth in this Complaint,
 6 fairness requires the association of defendants to be recognized as a legal entity, as
 7 the association has violated Plaintiff and Class Members’ legal rights.

8 26. Plaintiffs are further informed and believe and thereon allege that each
 9 and all of the acts herein alleged as to each defendant was authorized and directed by
 10 the remaining defendants, who ratified, adopted, condoned and approved said acts
 11 with full knowledge of the consequences thereof, and memorialized the authority of
 12 the agent in a writing subscribed by the principal.

13 27. Plaintiffs are informed and believe and thereon allege, that each of the
 14 defendants herein agreed among each other to commit the unlawful acts (or acts by
 15 unlawful means) described in this Complaint.

16 28. The desired effect of the conspiracy was to defraud and otherwise
 17 deprive Plaintiffs and Class Members (as hereinafter defined) of their constitutionally
 18 protected rights to property, and of their rights under other laws as set forth herein.
 19 Each of the defendants herein committed an act in furtherance of the agreement.
 20 Injury was caused to the Plaintiffs and Class Members by the defendants as a
 21 consequence.

22 **V. FACTS**

23 **A. Nerium Operates A Pyramid Scheme**

24 29. Nerium was founded back in 2011 by co-defendant Jeff Olson
 25 (“Olson”). Olson previously created and operated the People’s Network, another
 26 MLM Company that has since cratered.

27 30. Nerium has stated gross revenues of 516 million dollars in 2015.
 28

1 31. Nerium is involved in manufacturing so-called “age-defying” creams
2 and pills.

3 32. Brand Partners, who serve the role of distribution for Nerium
4 (heretofore referred to as “Brand Partners” or “Distributors”) have complained that
5 because there are so many distributors selling Nerium’s products, the market is
6 flooded with too much product. Many Brand Partners have also reported that they
7 have had a hard time selling the products because the Products smelled bad and did
8 not provide the health benefits marketed. Other Brand Partners have stated that
9 there are much better products out there for a fraction of the price.

10 33. Nerium admits in its seminars that it is loading inventory, but
11 misrepresents that its loading is “free” even though there is nothing free about
12 shipping fees, product fees, and handling fees.

13 34. Defendant Nerium generates revenue using a product-based pyramid
14 scheme. Nerium sells its products to Nerium Partners who recruit multiple, new
15 Nerium Partners. They, in turn, purchase Nerium products and recruit yet more
16 Nerium Partners in an ever-growing pyramid.

17 35. Nerium uses the lure of potential future bonuses, commissions, prizes
18 (like iPads and Lexus cars) and “limitless opportunities” to motivate active
19 participation of Nerium Partners.

20 36. Defendant Nerium sells a skin care product in the form of a skin cream
21 named “Nerium AD.”

22 37. Nerium claims the key active ingredient in Nerium AD is an extract of
23 the Nerium Oleander plant.

24 38. Nerium claims oleander possesses “remarkable properties” for
25 improving the appearance of damaged skin and that it produces “remarkable age-
26 defying results when applied to the skin.” Nerium purports to have “stumbled upon”
27 those properties in a “true accidental discovery” and then scientifically “harnessed
28 the power of oleander” in Nerium AD skin cream.

1 39. Nerium claims that the use of Nerium AD skin cream produces
2 dramatic improvements in the look of a person's skin, and that it is "proven" to
3 dramatically reduce the appearance of wrinkles, skin discoloration, poor skin
4 texture, poor skin tone, enlarged pores and aging loose skin.

5 40. Nerium markets Nerium AD as purportedly being backed by "Real
6 Science" and as producing "Real Results."

7 41. Specifically, the actual labeling of the product falsely claims "age-
8 defying supplement," "helps protect against common age-related mental decline
9 with a groundbreaking formula that includes our exclusive, patented EHT extract, a
10 natural mixture of bioactive molecules isolated from coffee, promotes better
11 cognitive function and overall brain health, improves memory and recall, fortifies
12 and strengthens natural brain functions, increases focus and mental alertness,
13 protects and supports neuronal networking, enhances the body's natural energy
14 stores, and boosts the body's immune system.

15 42. Nerium claims the purported results achieved by using Nerium AD are
16 "based on proven science and actual customer success."

17 43. On information and belief, Nerium's principle marketing strategy is to
18 present "before and after" photographs showing purported dramatic results achieved
19 by people who have allegedly used Nerium AD skin cream.

20 44. On information and belief, Nerium, by and through its agents, provides
21 those "before-and-after" photographs and related marketing materials to Nerium
22 Partners for marketing, inter alia, on web sites and social networking platforms such
23 as Facebook, Twitter, Pinterest, Instagram, Google+ and others.

24 45. On information and belief, the purported "real results" and "actual
25 customer success" of using Nerium AD shown in those "before and after"
26 photographs are fabricated – that is, they are not real results.

1 46. On information and belief, Nerium's claims of dramatic skin
2 improvements achieved by using Nerium AD skin cream have not been validated or
3 confirmed by any recognized or peer reviewed scientific studies.

4 47. On information and belief, Nerium uses "before and after" photos with
5 fabricated results to fraudulently induce Brand Partners and consumers to purchase
6 Nerium AD skin cream and to entice them to become Nerium Partners.

7 48. On information and belief, Defendant Nerium and the Defendant
8 Nerium Partners, themselves and/or by and through their respective agents, have
9 used, the name, likeness, image, identity and persona of certain star personalities
10 like Ray Liotta to advertise, market and promote the sale of Nerium AD and to
11 recruit new Nerium Partners, for Defendants' commercial benefit and gain.

12 49. One former marketing employee of Nerium claimed on the website,
13 Glassdoor.com on May 28, 2016, that "[Nerium] preaches these great values and
14 even print cards. Its a joke among staff that they are never followed. Its a multi-
15 level MARKETING company remember. Its [sic] all propaganda. Spend tens of
16 thousands (literally) on redo-ing signs and bags for products because the color is
17 wrong (not close enough to Tiffany blue ... sorry, Nerium blue) but cut staff
18 benefits."

19 50. On March 25, 2015, another former employee of Nerium claimed as to
20 the "cons" of the organization to Glassdoor.com: "Too many to list. They brainwash
21 everyone in their organization into thinking that they own their own business. Or
22 that if you want it you can attain it, you just have to believe. Well believe me, it['s] a
23 SCAM. There is 0 future. **Advice to Management.** ... You're taking advantage of
24 people every step of the way."

25 51. On October 24, 2014, another former employee of Nerium posted on
26 Glassdoor.com, "do NOT NOT NOT get sucked into this MLM cult."

27 52. Another Brand Partner of Nerium complained on Glassdoor.com as to
28 the cons of Nerium: "Where do I start? The product is very expensive and it's hard

1 to get people to keep buying it, you have to convince them to come on board to sell
2 it so they can get theirs cheaper or free, etc. Not everyone wants to sell and you get a
3 lot of no's. Someone can get botox and juvederm cheaper than they can get a few
4 months of this. The before/after pics always seem to be in different light so it's hard
5 to say if it's still working. It didn't work for me or the 3 people I sold it to. The ones
6 that are really into it, it seems like a cult almost, like the church of Nerium. Glory be
7 to God and Nerium is what they say. It's laughable. You get a "free" Lexus that they
8 pay 500.00 towards. But if your sales go down, membership goes down, etc you are
9 stuck with a lease. I'd rather have the money. Just don't do it. These people are
10 borderline nuts.”

11 53. Another former employee commented on Glassdoor.com: “[not] just a
12 pyramid scheme...Some of the training techniques are about the same as
13 brainwashing...”

14 54. The starter pack for Nerium is approximately \$600, which includes
15 supplements, mind enhancement, firming body contour, and AD night cream.
16 Difference variants of the starter pack are offered.

17 55. Ordinary customers can purchase the products on websites like Ebay or
18 Amazon, for considerably less than a brand partner pays for the products.

19 56. By signing persons up, Nerium is frontloading “Brand Partners” with
20 significant product.

21 57. A Brand Partner is required to bring in 200 points for customers, or 80
22 points if a person purchase the products himself/herself. The main driver is for
23 Brand Partners to recruit other Brand Partners.

24 58. Only through recruiting, does a Brand Partner receive “team
25 commissions,” which is where a Brand Partner obtains residual income paid out up
26 to 10 levels. In other words, team commissions pay 10 levels above the pyramid
27 when new brand partners are signed up.
28

1 59. Nerium falsely and misleadingly claimed the following to Plaintiffs and
2 the Class:

- 3 • You can receive a “live better bonus of \$150,000.”
- 4 • “With Nerium International, you can have everything.” Further,
5 “[o]ur program allows you the life-changing career to tailor your
6 career to unlimited success, your way... They incentivize you to
7 become the best person you can be... I quickly earned my
8 Lexus... I got an i-pad bonus... You can pay off your student
9 loans... I wanted to retire my parents.”
- 10 • You “get paid to party.” The representation “[i]f you want your
11 future on your terms, get with your referring brand partner for
12 more information.”
- 13 • CEO Jeff Olson claims, “[w]e have people who’ve earned their
14 iPads, they’ve earned their cars, earned dream vacations, great
15 incomes, six figure incomes, people making adult incomes,
16 people making incomes that put them in the top 5 percentile of
17 the United States.”
- 18 • While Nerium’s website professes that it provides its distributors
19 with financial freedom, its outdated, hard-to-find, U.S. 2013
20 Income Declaration is misleading affirmatively, and by
21 omission.
- 22 • “I wanted to be able to get out there and retire my parents. I
23 wanted to be able to go out there and make an impact in their
24 life, and Nerium gave me that opportunity.”
- 25 • “When you don’t worry about money anymore, you don’t have
26 to stress out over the bills, you know it’s about the choices you
27 have – the freedom you have.”

- “Nerium has just completely changed my life; everything about my life has gotten completely 100% better. We recently purchased our dream home and it’s absolutely gorgeous.”

60. Nerium constitutes an exploitive money transfer scheme. Contrary to Nerium’s representation that it is “a proven system for people to make significant amount of money,” the average income of Nerium Brand Partners reflects that nearly every brand partner in Nerium makes minimum wage to nothing.

61. If Nerium’s products were so effective, partners would not be marketing benefits from people who are not even using the product.

62. Nerium asserts it has a return policy of 30 days, but Brand Partners have to pay for shipping and handling fees.

63. The Wyoming Attorney General has asserted distributors used prohibited income representations, the SEC has asserted Nerium has marked payments to salespeople as assets instead of expenses, and Nerium settled 400 lawsuits in just the State of Missouri.

64. TINA.org, a non-profit organization, conducted an investigation into Nerium. The investigation revealed that Nerium and its high-level Brand Partners were engaged in a deceptive marketing campaign for both the Nerium business opportunity and Nerium’s products.

65. First, TINA.org found that Nerium, through its distributors, is using a plethora of deceptive and unsubstantiated health and disease-treatment claims to sell its products. In fact, TINA.org compiled over 100 examples of unsubstantiated health and disease treatment claims made about Nerium products, such as being able to treat, cure, or alleviate the symptoms of autism, post-traumatic stress disorder, Alzheimer’s disease, Parkinson’s disease, psoriasis, eczema, acne, and rosacea. The examples are available at <https://www.truthinadvertising.org/nerium-health-claims-database/>.

1 66. Though the company tries to give the illusion that it has robust
2 scientific support for the health claims made about its products, none of it satisfies
3 the required substantiation to make such health and disease-treatment claims.

4 67. In short, Nerium does not have competent and reliable scientific
5 evidence in the form of clinical trials that are placebo controlled, randomized, and
6 double-blind to substantiate the claims at issue.

7 68. Second, TINA.org's investigation revealed that Nerium and its
8 distributors are using deceptive, atypical, and unsubstantiated income claims
9 regarding the financial gains consumers will achieve by becoming distributors. For
10 example, Nerium advertises that its distributors can become millionaires and earn
11 incomes that can put them in the top 5% of U.S. income earners. Not only are such
12 results not typical, but marketing claims that boast atypical results are made without
13 clearly and conspicuously providing appropriate income disclosures. TINA.org
14 compiled over 100 instances of these types of income claims, which are all available
15 at <https://www.truthinadvertising.org/nerium-incomeclaims-database/>.

16 69. The focus of Nerium is getting Brand Partners to purchase a starter
17 pack and get them to sign up new brand partners to purchase a starter pack to
18 endless scheme.

19 70. Nerium represents "[l]iving life on your own terms," "enjoying
20 financial freedom," "having fun and helping others to have fun," "you can take
21 control of your destiny with this opportunity," "[w]e have a simple proven system,"
22 and "what a better way to earn part time to full time income with products you
23 love."

24 71. Rewards paid in the form of cash bonuses, where primarily earned for
25 recruitment, as opposed to merchandise sales to consumers, constitute a fraudulent
26 business model. *See F.T.C. v. BurnLounge, Inc.*, 753 F.3d 878 (9th Cir. 2014).

27 **B. Distributors Are Unable To Sell Nerium Products For A Profit**
28

1 72. Brand Partners are unable to consistently sell Nerium products for a
2 profit for many reasons. First, the products are overpriced. Interchangeable products
3 are available online or in brick-and-mortar stores for amounts far less than Nerium's
4 suggested retail price, and even lower than its wholesale prices.

5 73. Second, Nerium's products themselves are available online for the
6 wholesale price or less. That these products are sold below the wholesale price
7 makes it difficult for Brand Partners to sell the products for a profit. Moreover,
8 many of these sales are likely made by current or former Brand Partners desperately
9 trying to offload excess product at whatever price they can get, which further
10 supports the proposition that Brand Partners Inventory Load and that the Nerium
11 products are overpriced.

12 74. Third, Nerium prohibits Brand Partners from selling the products in the
13 only forum for a where Brand Partners could reasonably expect to sell enough
14 product to make a meaningful profit: the internet. Some examples of these
15 prohibited websites include, but are not limited to: eBay, Amazon or Craigslist. In
16 addition, Nerium forbids its Brand Partners from selling Nerium products at almost
17 all brick-and-mortar establishments. Nerium seeks to limit the Distributors to one-
18 on-one situations in private locations (such as the Brand Partner's or a friend's
19 home), but achieving significant, profitable retail sales by this method is extremely
20 difficult.

21 75. Plaintiffs do not contend that Brand Partners make no retail sales at all.
22 But Plaintiffs do allege that relatively little of the revenues received by Brand
23 Partners—including both money paid them by Nerium and proceeds from retail
24 sales—comes from retail sales, and the vast majority comes from Brand Partners'
25 payments to Nerium. Thus, the Brand Partners are primarily feeding off each other.

26 76. Nerium also makes false and/or inadequate income disclosures in that
27 in many instances, it does not disclose income of those who are distributors, or
28 provides statements of income that are false, and/or misleading, that affirmatively

1 represent a profitable business opportunity, when there is no profit to be made, and
2 nearly all participants in fact, lose money.

3 77. Because Nerium pays the executives at the top of the pyramid exorbitant
4 incomes and because little non-Distributor money comes into the scheme to pay
5 Brand Partners, the Brand Partners at the bottom of the pyramid must lose money.
6 These losses are borne out by Nerium's own financial disclosures and the experiences
7 of the Plaintiffs and multiple other Brand Partners.

8 **C. The Individual Defendants and Nerium Promote the Pyramid**

9 78. The Individual Defendants are persons at the top of Nerium's pyramid.
10 All of the Individual Defendants achieved ranks of top executive. They are in the top
11 1% of Distributors who make the most lucrative bonuses. They actively participate in
12 the Nerium pyramid scheme, and they profit from the compensation plan at the
13 expense of the vast majority of Brand Partners.

14 79. Nerium and the Individual Defendants promote the pyramid scheme and
15 make misleading claims of financial success.

16 80. In coordination with Nerium, the Individual Defendants have flooded the
17 internet with promotional materials designed to lure in new Brand Partners. Nerium
18 and the Individual Defendants promote the scheme as a lawful program that, with
19 sufficient hard work, virtually guarantees financial success. Nerium and the
20 Individual Defendants promote Nerium as a reliable source of significant income.

21 81. Jeff is the Chief Executive Officer of Nerium. Jeff contrived, prepared,
22 set up, and developed the structure and parameters of the Brand Partners' program,
23 and the Brand Partners' endless chain scheme alleged herein above. As a top
24 executive, visionary leader, and member of the Board for Nerium, Jeff has been, and
25 is currently responsible for operating the Nerium endless chain scheme and directing
26 others on the operation of the Nerium endless chain scheme. Jeff is also the very
27 public face of Nerium. Promotional materials describe Jeff as the leader of the
28 Nerium opportunity. Jeff's photograph and biography are prominently placed on

1 Nerium's website and Nerium's product brochures, promotional materials, and
2 documents with Jeff's information is provided to recruits. Jeff travels extensively on
3 behalf of Nerium to regularly give speeches and make appearances at seminars and
4 other events for Nerium affiliates and recruits, all the while touting the benefits and
5 opportunities for affiliates under the Nerium program.

6 82. Renee is the Chief Leadership Officer of Nerium. Renee contrived,
7 prepared, set up, and developed the structure and parameters of the Brand Partners'
8 program, and the Brand Partners' endless chain scheme alleged herein above. As a
9 top executive, visionary leader, and member of the Board for Nerium, Renee has
10 been, and is currently responsible for operating the Nerium endless chain scheme
11 and directing others on the operation of the Nerium endless chain scheme. Renee's
12 photograph and biography are prominently placed on Nerium's website and
13 Nerium's product brochures, promotional materials, and documents with Renee's
14 information is provided to recruits. Renee travels extensively on behalf of Nerium to
15 regularly give speeches and make appearances at seminars and other events for
16 Nerium affiliates and recruits, all the while touting the benefits and opportunities for
17 affiliates under the Nerium program.

18 83. Amber is the Chief Marketing Officer of Nerium. Amber contrived,
19 prepared, set up, and developed the structure and parameters of the Brand Partners'
20 program, and the Brand Partners' endless chain scheme alleged herein above. As a
21 top executive, visionary leader, and member of the Board for Nerium, Amber has
22 been, and is currently responsible for operating the Nerium endless chain scheme
23 and directing others on the operation of the Nerium endless chain scheme. Amber's
24 photograph and biography are prominently placed on Nerium's website and
25 Nerium's product brochures, promotional materials, and documents with Renee's
26 information is provided to recruits. Amber travels extensively on behalf of Nerium
27 to regularly give speeches and make appearances at seminars and other events for
28

1 Nerium affiliates and recruits, all the while touting the benefits and opportunities for
2 affiliates under the Nerium program.

3 84. To sell the financial-success promise, Nerium and the Individual
4 Defendants flaunt the wealth of the highest-ranked Brand Partners and those few
5 insiders at the top of the pyramid, as examples of the riches that await new
6 participants, if only they will work hard enough (i.e., tirelessly recruit new
7 Distributors).

8 85. The Individual Defendants have produced videos and made statements
9 via the internet knowingly promoting Nerium's pyramid scheme and touting the
10 financial rewards supposedly available to participants. Each of these statements
11 furthered the pyramid scheme by encouraging persons to become Brand Partners and
12 by encouraging Distributors to remain Brand Partners and pursue the Nerium business
13 opportunity.

14 86. The Individual Defendants aided and abetted the torts listed in this
15 Complaint because they knew that Nerium and Skincare's conduct constitutes a
16 breach of duty and gives substantial assistance or encouragement to the other to so
17 act.

18 87. Each of the individual defendants reviewed the business plan, the
19 website of Nerium, the financials, and recognized that the business plan constitutes a
20 pyramid scheme.

21 88. The Individual Defendants were also facilitating orders for an unlawful
22 pyramid scheme and that Nerium's website made false, misleading, and deceptive
23 claims and engaged in unfair business practices.

24 89. Finally, the Individual Defendants knew that the money being paid by
25 the consumers was for the purposes of participation in the endless chain.

26 90. Each of the Individual Defendants authorized Nerium and Skincare to
27 configure their site and marketing materials so consumers would rely on their
28 representations.

1 91. Each of the Individual Defendants did this with the knowledge and
 2 specific intent of aiding and abetting and facilitating Nerium's endless chaing
 3 pyramid scheme, Nerium had hoped and believed that by allowing Nerium to take
 4 credit card orders, more persons would be able to participate in the illegal pyramid,
 5 resulting in more revenue for themselves. The Individual Defendants also realized
 6 that by providing their services to Nerium, this would lend an aura of respectability
 7 and further encourage participation.

8 92. Each of the Individual Defendants had the specific intent to facilitate
 9 the wrongful conduct of Nerium. The Individual Defendants had a conscious
 10 decision to participate in tortious activity for the purpose of assisting another in
 11 performing a wrongful act.

12 93. The Individual Defendants each acted with specific intent of aiding and
 13 abetting and facilitating Nerium's illegal pyramid business practices.

14 94. The similarity of the statements made by the Individual Defendants
 15 indicates a collusive effort to promote the Nerium scheme. The following paragraphs
 16 set forth just a small subset of publicly broadcast statements made by the Individual
 17 Defendants to promote the Nerium "business opportunity."

18 D. **Plaintiffs Are Victims Of The Pyramid Scheme**

19 95. Plaintiff Jia first became an Nerium Brand Partner on or about 2012 to
 20 2013 by making purchases and buying the starter pack. Plaintiff Jia continued to
 21 renew Nerium and pay monies toward the endless chain account years thereafter,
 22 and the endless chain account continues to be maintained and paid for. Plaintiff Jia
 23 paid between \$1200-\$1500 towards the opportunity, which did not include out of
 24 pocket expenses for the opportunity. Plaintiff Jia was deceived by Nerium's
 25 misleading opportunity believing, the opportunity was a legitimate way to earn
 26 money (even though that representation by Nerium and those representations made
 27 by the Individual Defendants were false), and Plaintiff Jia did in fact lose money as
 28 a result of Defendants' unfair, unlawful, and fraudulent business practice.

1 96. Plaintiff Sarah Sormillon became a Nerium Brand Partner in 2016 by
2 making purchases and buying the starter pack. Plaintiff Sormillon paid
3 approximately \$600 towards the business opportunity, which did not include out of
4 pocket expenses.

5 97. Plaintiffs Jia and Sormillon were unable to make any retail sales, and
6 they lost money in the Nerium scheme despite putting in effort.

7 98. Nerium through itself and the Defendants, and Jia's upline actually
8 made the representations (or in similar form) to Plaintiffs as reflected in ¶¶ 31, 35,
9 37, 38, 39-43, and 58 in written presentations, disclosures, online materials, online,
10 orally, at various times for Jia in 2013, 2014, 2015, 2016 and as for Sormillon, 2016.
11 Nerium also made income and other business representations to Sormillon, as
12 reflected in exhibit A attached to this Complaint, and as to Jia, as reflected in exhibit
13 B attached to this Complaint. Representations (or ones similar thereto) were made
14 by Plaintiffs to both Defendants, attached hereto as Exhibits A through D.

15 99. Plaintiffs Jia and Sormillon were deceived by Nerium's misleading
16 opportunity believing, the opportunity was a legitimate way to earn money (even
17 though that representation by Nerium and the Individual Defendants was false), and
18 Plaintiff Jia and Sormillon did in fact lose money as a result of Defendants' unfair,
19 unlawful, and fraudulent business practices.

20 100. The official policies in the Application and the Policies Manual (as later
21 defined), and as conveyed through Plaintiff Jia's upline in the Nerium pyramid
22 enterprise, discourage practices associated with pyramid schemes, such as inventory
23 loading, and instead, have stated for several years to Jia, that the Defendants are a
24 legitimate direct selling company.

25 101. Plaintiff Jia discovered on or about March of 2017, that the Defendants
26 were operating a pyramid scheme.

27 102. That the Nerium opportunity was a pyramid scheme, was a fact
28 concealed by the Defendants through their Application, their Policies Manual (as

1 later defined), through their training manuals, distribution materials, marketing
2 materials, seminars, and the dissemination of presentation materials.

3 103. Through March of 2017, the Defendants never intended to actually pay
4 Jia or make her a success in the pyramid scheme of the Defendants, because Jia was
5 not an insider or a conspirator in the pyramid scheme.

6 104. Plaintiff Jia was ignorant of the fact that the Defendants were operating
7 a pyramid scheme. Plaintiff Jia relied on the fact that the Defendants had financial
8 superiority, wealth, experience, and supposed acumen in the community, and
9 particularly in consideration of Plaintiff's financial position. Plaintiff had not
10 discovered Nerium was operating a pyramid scheme until on or about March of
11 2017 when Plaintiff had learned about the various lawsuits against Nerium, and her
12 efforts to sell or Nerium were exhausted.

13 100. Plaintiff Jia lacked the ability to discover the facts that the Defendants
14 were operating a pyramid scheme based on the Defendants' stature as a major
15 company touting to be a billion dollar international company, and the promises of
16 Nerium and Plaintiff's upline.

17 101. From on or about 2012 to 2017, the Defendants engaged in a pattern of
18 reasonably frequent and similar acts in not paying Plaintiff Jia any amount owed on
19 account of their endless chain distributor account with Plaintiffs including points,
20 credits, and charges, through 2017, all the time representing that the business was a
21 legitimate direct selling company.

22 **E. Nerium's Documents Of Adhesion**

23 105. At some times during Nerium's history, it has apparently maintained a
24 document labeled, "Independent Brand Partner Application" (the "Application").

25 106. Upon recent investigation of the Application, it has been determined that
26 the Application has at certain times, included a provision that provides as follows:
27 "[a]ny and all disputes regarding or related to this Agreement, and all other
28 documents incorporated herein, shall be resolved by binding arbitration administered

1 by the American Arbitration Association (“AAA”) and conducted under its rules, and
2 the arbitration proceeding shall be held in Dallas, Texas, as is more particularly set
3 forth in Section 11.06 of the Nerium International Policies and Procedures Manual”
4 (“Policies Manual”).

5 107. However, § 11.06 of the Policies Manual does not even discuss
6 arbitration.

7 108. Upon further investigation, § 11.09 of the Policies Manual provides:

- 8
- 9 a) Except as expressly set forth herein, all disputes, claims and
10 controversies between Brand Partner and the Company relating to or
11 arising out of the Agreement, the Compensation Plan, this Policy
12 Manual, other documents produced by the Company, or the
13 Company’s products, the rights and obligations of Brand Partner
14 and the Company or any other claims or causes of action relating to
15 the performance of any Brand Partner under the Agreement and this
16 Policy Manual shall be settled totally finally and exclusively by
17 arbitration through the Company’s Alternative Dispute Resolution
18 Procedure (“ADR Procedure”). A copy of the Company’s ADR
19 Procedure has been delivered to Brand Partner and can be obtained
20 from the Company by written request. No legal action can be filed
21 in any court concerning a Dispute as defined in the ADR Procedure.
22 The Disputes subject to arbitration include claims that Brand
23 Partner’s termination was illegal or unlawful.
- 24 b) Arbitration is commonly used and accepted technique for resolving
25 Disputes in a timely, cost-efficient manner. Any Brand Partner who
26 feels that his or her termination was unlawful may file a claim and
27 initiate the arbitration process directly, or through an attorney,
28 within six months of the termination decision.
- c) Notwithstanding the foregoing, the arbitrator shall have no
jurisdiction over disputes relating to the ownership, validity or
registration of any mark or other intellectual property or proprietary
or confidential information of the Company without the Company’s
prior written consent. The Company may seek any applicable
remedy in any applicable forum with respect to these disputes and
with respect to money owing to the Company. In addition to
monetary damages, the Company may obtain injunctive relief

against Brand Partner for any violation of the Agreement or misuse of the Company's trademark, copyright or confidential information policies.

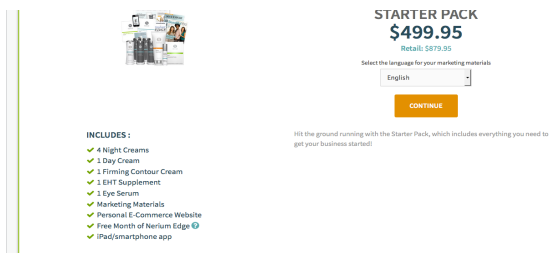
- d) Nothing in this rule shall prevent the Company from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction and/or other injunctive or emergency relief available to safeguard and protect the Company's interests prior to the filing of or during or following any arbitration or other proceeding or pending the handing down of a decision or award in connection with any arbitration or other proceeding.
- e) Nothing contained herein shall be deemed to give the arbitrator any authority, power or right to alter, change, amend, modify, add to, or to subtract from any of the provisions of this Agreement.

(Policies Manual, § 11.09).

109. According to Nerium, a person becomes a brand partner Nerium when he or she buys a "starter pack."

110. As for Plaintiff Sormillon, like other class members who signed up online, Sormillon did not have to sign or agree to the Application, nor Policies Manual prior to purchasing a starter pack to become a Brand Partner. (See Figure No. 1).

FIGURE NO. 1



111. Several screens prior to Figure No. 1, the screen on Nerium's website provides "I agree to Nerium International Terms of Service" next to a check box so that an individual could sign up for an "Edge Subscription." (See Figure No. 2 below).

FIGURE NO. 2

NEXT MONTH'S EDGE SUBSCRIPTION

SUBTOTAL (1 Items) \$29.95
TOTAL \$29.95

Disclaimers

☒ Sign me up for happy news, tips and smiles with Live Happy Communications.

☒ I agree to Nerium International Terms of Service

SAVE AND PLACE ORDER







RETURNS
POLICIES & PROCEDURES
PRIVACY POLICY


SPAM POLICY
TERMS & CONDITIONS
90 DAY GALLERY

FAQ
BLOG

Country: Canada | More

VISIT US ON:



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112. However, “Terms of Service” is not one of the documents on the Nerium site, nor any document presented to Sormillon and/or other class members online.

113. The arbitration policy of Nerium is unenforceable and unconscionable for several reasons based on law and fact.

114. Plaintiffs’ and the Class Members’ participation in Nerium’s endless chain is embodied through invoices, receipts, and open account statements (among other documents).

VI. CLASS ACTION ALLEGATIONS

115. Plaintiffs seek to represent a nationwide class defined as follows:

116. Plaintiffs bring this action as a class action under Federal Rule of Civil Procedure 23.

117. Plaintiffs seek to certify a class pursuant to Fed. R. Civ. Proc. 23(a), 23(b), 23(c)(4), and 23(c)(5), if necessary.

118. Plaintiffs seek relief on behalf of themselves and the following class: persons who paid start-up fees, monthly fees, annual fees, seminar ticket fees, any other fees imposed by Nerium, and/or purchased products from Nerium between January 1, 2012, to the present date, whose gross amounts paid to Nerium exceeded income received from their participation in the Nerium scheme.

119. Subject to confirmation, clarification and/or modification based on discovery to be conducted in this action, Plaintiffs also seek to represent a sub-class

1 in California, defined as follows: persons residing in California who paid start-up
2 fees, monthly fees, annual fees, seminar ticket fees, any other fees imposed by
3 Nerium, and/or purchased products from Nerium between January 1, 2012, to the
4 present date, whose gross amounts paid to Nerium exceeded income received from
5 their participation in the Nerium scheme.

6 120. Subject to confirmation, clarification and/or modification based on
7 discovery to be conducted in this action, Plaintiffs also seeks to represent a sub-class
8 of all worldwide participants of Nerium, defined as follows: persons residing
9 anywhere in the World who paid start-up fees, monthly fees, annual fees, seminar
10 ticket fees, any other fees imposed by Nerium, and/or purchased products from
11 Nerium between January 1, 2012, to the present date, whose gross amounts paid to
12 Nerium exceeded income received from their participation in the Nerium scheme.

13 121. Pursuant to the previous paragraph of this complaint, the damage to any
14 person living anywhere else other than the United States involved a domestic injury
15 to business or property because all contracts of independent business owners were
16 negotiated, executed, and stored on a server in the United States owned by Nerium,
17 and are available on the worldwide web, involved a significant connection to
18 domestic commerce in that the labeling, products, and other parts of the
19 manufacturing and sales and marketing process were conducted from the United
20 States, and for other reasons to be provided according to proof, and after the
21 opportunity for discovery.

22 122. Excluded from the class are the Defendants, executives of Nerium,
23 family members, this Court.

24 101. Plaintiffs seek to pursue a private attorney general action for injunctive
25 relief for themselves and all members of the class, and they satisfy the standing and
26 class action requirements.

27 102. While the exact number of members in the Class and Subclasses are
28 unknown to Plaintiffs at this time, and can only be determined by appropriate

1 discovery, membership in the class and subclasses is ascertainable based upon the
2 records maintained by Defendant. It is estimated that the members of the Class are
3 greater than 100,000, nationwide.

4 103. Therefore, the Class and Subclasses are so numerous that individual
5 joinder of all Class and Subclass members is impracticable.

6 104. There are questions of law and/or fact common to the class and
7 subclasses, including but not limited to: (a) Whether Nerium is operating an endless
8 chain; (b) Whether Distributors paid money to Nerium for (1) the right to sell a
9 product and (2) the right to receive, in return for recruiting others, rewards which
10 were unrelated to the sale of the product to retail consumers; (c) Whether Nerium's
11 rules apply to Section 327 claims; (d) If the Nerium rules do apply, are Nerium's
12 rules effective; (e) If the Nerium rules do apply, and Nerium's rules are effective,
13 did Nerium enforce those rules; (f) Whether Nerium or the Individual Defendants
14 omitted to inform the Plaintiffs and the plaintiff class that they were entering into an
15 illegal scheme where an overwhelming number of participants lose money; (g)
16 Whether Nerium's statements of compensation during the Class Period were
17 deceptive and misleading; (h) Whether Nerium's conduct constitutes an unlawful,
18 unfair and/or deceptive trade practice under California state law; (i) Whether
19 Nerium's conduct constitutes unfair competition under California state law; and (j)
20 Whether Nerium's conduct constitutes false advertising under California state law.

21 105. These and other questions of law and/or fact are common to the class
22 and subclasses and predominate over any question affecting only individual class
23 members.

24 106. Plaintiffs' claims are typical of the claims of the class and subclasses in
25 that Plaintiffs were Brand Partners for Defendant Nerium and lost money because of
26 the illegal scheme.

27 107. Plaintiffs will fairly and adequately represent the interests of the class
28 and subclasses. Plaintiffs' claims are typical of those of the class and subclasses.

1 Plaintiffs' interests are fully aligned with those of the class and subclasses. Plaintiffs
2 have retained counsel experienced and skilled in complex class action litigation.

3 108. Class action treatment is superior to the alternatives for the fair and
4 efficient adjudication of the controversy alleged, because such treatment will allow
5 many similarly-situated persons to pursue their common claims in a single forum
6 simultaneously, efficiently and without unnecessary duplication of evidence, effort,
7 and expense that numerous individual actions would engender.

8 109. Plaintiffs know of no difficulty likely to be encountered in the
9 management that would preclude its maintenance as a class action.

10 **VII. CLASS ACTION COUNTS**

11 **COUNT I**

12 **Declaratory Judgment Declaring the Arbitration Provision Unenforceable**
13 **(Plaintiffs on Behalf of Themselves And Those Similarly Situated, Against All**
14 **Defendants, including DOES 1 through 10)**

15 110. Plaintiffs reallege all allegations as if fully set forth herein, and
16 incorporate previous allegations by reference.

17 111. Neither Plaintiff assented to an arbitration policy of Nerium in
18 becoming a Brand Partner.

19 112. In the alternative, the arbitration policy of Nerium is unconscionable.

20 113. The arbitration provision is alternatively, unenforceable as a matter of
21 fact, and law.

22 114. For these reasons, and those legal reasons to be stated in connection
23 with any motion practice initiated by the Defendants, the Court should declare that
24 the arbitration provision is illusory, lacks consideration, is unenforceable, and that
25 the Plaintiffs' claims and the Classes' claims are properly before this Court.

26 **COUNT II**

27 **ENDLESS CHAIN SCHEME; California Penal Code § 327 and Section 1689.2**
28 **of the California Civil Code**

1 (Plaintiffs on behalf of themselves and the Class, Against All Defendants including
2 DOES 1 through 10)

3 97. Plaintiffs reallege all allegations as if fully set forth herein, and
4 incorporate previous allegations by reference.

5 98. Section 1689.2 of the California Civil Code provides: “[a] participant in
6 an endless chain scheme, as defined in Section 327 of the Penal Code, may rescind
7 the contract upon which the scheme is based, and may recover all consideration paid
8 pursuant to the scheme, less any amounts paid or consideration provided to the
9 participant pursuant to the scheme.”

10 99. The Defendants are operating an endless chain scheme under Section
11 327 of the Penal Code because they have contrived, prepared, set up, and proposed
12 an endless chain as pled in the factual section of this Complaint.

13 100. The Nerium operation constitute a scheme for the disposal or
14 distribution of property whereby class members pay a valuable consideration for the
15 chance to receive compensation for introducing one or more additional persons into
16 participation in the scheme or for the chance to receive compensation when a person
17 introduced by the participant introduces a new participant.

18 101. Independently, the Nerium operation constitute an endless chain
19 because members pay an initial fee and then are required to purchase significant
20 amounts of product, only to have a membership terminated (and points/commissions
21 canceled), if he fails to pay.

22 102. Independently, the Nerium operations constitute an endless chain
23 because defendants tell victims they earn commissions by recruiting other people to
24 buy memberships and the members, were in turn, instructed to recruit more
25 members. Revenues are made primarily from recruitments.

26 103. Independently, the Nerium operations constitute an endless chain
27 because Defendants’ commissions, income, lottery gifts like vehicles, and free
28

1 products were based on a current member's sales of memberships to new members
2 and not the sale of products.

3 104. Plaintiffs and the class have suffered an injury in fact and have lost
4 money or property because of Nerium and the Individual Defendants' operation of
5 an endless chain, business acts, omissions, and practices.

6 105. Plaintiffs and the class are entitled to: (a) rescind all receipts,
7 statements, invoices, and writings upon which the scheme is based and recover all
8 consideration paid under the scheme, less any amounts paid or consideration
9 provided to the participant under the scheme; (b) restitution, compensatory and
10 consequential damages (where not inconsistent with their request for rescission or
11 restitution); and (c) attorneys' fees, costs, pre and post-judgment interest.

12 **COUNT III**

13 **Unfair and Deceptive Practices Claims Under Cal. Bus. & Prof. Code § 17200,**
14 ***et seq.***

15 (Plaintiffs on behalf of themselves and the Class Against All Defendants including
16 DOES 1 through 10)

17 106. Plaintiffs reallege all allegations as if fully set forth herein, and
18 incorporate previous allegations by reference.

19 107. All claims brought under this Third Cause of action that refer or relate
20 to the unlawful, fraudulent or unfair "endless chain" of the Defendants are brought
21 on behalf of Plaintiffs and the Class.

22 108. All claims brought under this Third Cause of Action that refer or relate
23 to the unlawful, fraudulent or unfair the statements, the touted Nerium "business
24 opportunity" are brought on behalf of Plaintiffs and the Class.

25 109. Nerium has engaged in constant and continuous unlawful, fraudulent
26 and unfair business acts or practices, and unfair, deceptive, false and misleading
27 advertising within the meaning of the California Business and Professions Code §
28 17200, *et seq.* The acts or practices alleged constitute a pattern of behavior, pursued

1 as a wrongful business practice that has victimized and continues to victimize
2 thousands of consumers for which Plaintiffs' seek to enjoin from further operation.
3 The Nerium Sales and Marketing Plan Is Unlawful.

4 110. Under California Business and Professions Code § 17200, an
5 "unlawful" business practice is one that violates California law.

6 111. Nerium's business practices are unlawful under § 17200 because they
7 constitute an illegal "endless chain" as defined under, and prohibited by, California
8 Penal Code § 327.

9 112. Nerium utilizes its illegal "endless chain" with the intent, directly or
10 indirectly, to dispose of property in Nerium's products and to convince Distributors
11 to recruit others to do the same.

12 113. Nerium's business practices are unlawful pursuant to § 17200 because
13 they violate § 17500 *et seq.*, as alleged in the Fourth Count.

14 114. Under California Business and Professions Code § 17200, a
15 "fraudulent" business practice is one that is likely to deceive the public.

16 115. Nerium's business practices are fraudulent in two separately actionable
17 ways: (1) Nerium's business constitutes an illegal and deceptive "endless chain;" (2)
18 the touted, yet non-existent, Nerium "business opportunity" is for everyone,
19 including but not limited to Nerium's massive advertising campaign and the
20 misleading statements of compensation.

21 116. First, as detailed herein, Defendants promoted participation in the
22 Nerium endless chain, which has a compensation program based on payments to
23 participants for the purchase of product by participants, not the retail sale of
24 products or services.

25 117. Nerium has made numerous misleading representations to Plaintiffs
26 about the business opportunity of Nerium and the income that a recruit or a
27 distributor can realize by becoming a distributor, and participating in the scheme.
28

1 118. Nerium knew, or should have known, that the representations about the
2 business opportunity of Nerium were misleading in nature.

3 119. As a direct result of Nerium' fraudulent representations and omissions
4 regarding the Nerium endless chain described herein, Nerium wrongly acquired
5 money from Plaintiff and the members of the classes.

6 120. Second, Nerium touted, in numerous different ways as part of a
7 massive advertising campaign, a "business opportunity," which Nerium also
8 repeatedly and in many ways represented, among other things, as being "for
9 everyone" and allowing "full time" or "part time" opportunities.

10 121. The massive advertising campaign included among other things, the
11 website, emails, websites, presentations by Nerium, training, word of mouth among
12 Distributors, and events.

13 122. As part of this campaign and a further inducement to potential
14 Distributors, Nerium made and disseminated statements of compensation that
15 further misled the public, among other things: (1) by using cryptic and technical
16 terms known to Nerium but not to the general public or to those exploring the
17 claimed "business opportunity," (2) by highlighting the successful persons, i.e.,
18 those that received compensation from Nerium, and the average gross compensation
19 paid by Nerium to those persons, (3) by failing to disclose the actual number of
20 successful persons as compared to the number of Distributors who received no
21 compensation from Nerium, and (4) by downplaying and omitting the risks and
22 costs involved in starting an Nerium Distributorship and succeeding in such a
23 Distributorship.

24 123. In reality, the touted "business opportunity" was only for a select few,
25 and those that were recruited specially. And these numbers did not include expenses
26 incurred by distributors in the operation or promotion of their businesses, meaning
27 there were likely more net losers who made no profit at all.
28

1 124. Nerium knew, or should have known, that the selective information
2 presented to distributors in the compensation and its massive adverting campaign
3 during that time frame touting its purported “business opportunity” was likely to
4 mislead the public and did in fact mislead the public into believing that there was a
5 legitimate “business opportunity” in which Distributors/Brand Partners, or a large
6 portion of them, could make money in either a full or part time capacity. In fact,
7 however, there was no such “business opportunity,” except for a very select few.

8 125. As a direct result of Nerium’ fraudulent representations and omissions
9 regarding the Statement and the massive adverting campaign during that time frame
10 and thereafter touting Nerium’s purported “business opportunity” described herein,
11 Nerium wrongly acquired money from Plaintiffs and the members of the classes.

12 126. The named Plaintiffs have standing to bring these § 17200 claims under
13 the fraudulent prong, and can demonstrate actual reliance on the alleged fraudulent
14 conduct.

15 127. For instance, Plaintiffs have been in receipt of misleading and false
16 financial statements and marketing materials/seminar papers, which promoted the
17 Nerium scheme and claimed “business opportunity” and contained material false
18 representations regarding the success Distributors could achieve through Nerium by
19 purchasing products and recruiting others to do the same.

20 128. There were other representations made to Brand Partners as part of the
21 massive advertising campaign regarding the claimed “business opportunity,” on
22 which Plaintiff or some of the Class Members, reasonably believed the
23 representations they could succeed in the “business opportunity,” did not return the
24 refund, purchased Nerium products and did not immediately return them, signed up
25 as Nerium Brand Partners, and attempted to and recruited others to do the same.
26 These other representations include, but are not limited to the following: (a) emails
27 from Nerium that promoted Nerium and contained material false representations
28 regarding the success that a distributor could achieve through Nerium by purchasing

1 products and recruiting others to do the same; (b) websites, such as
2 www.nerium.com and Neriumskin.com, which promoted the fraudulent scheme
3 through videos of Individual Defendants containing material false representations
4 regarding the “business opportunity” available to Distributors and the wealth that a
5 distributor could get by agreeing to become an Nerium distributor; (c) presentations
6 by Nerium Distributors which contained material false representations regarding the
7 “business opportunity” and the success that a distributor could get through Nerium
8 by purchasing products and recruiting others to do the same; (d) presentations by
9 Nerium, including the presentations described in this complaint, which contained
10 material false representations regarding the “business opportunity” and the success
11 that a distributor could get through Nerium by purchasing products and recruiting
12 others to do the same; (e) training and events where Nerium Brand Partners made
13 material false representations regarding the “business opportunity” and the success
14 that a distributor could get through Nerium by purchasing products and recruiting
15 others to do the same.

16 129. To the extent proof of reliance is required of Plaintiffs, Nerium and the
17 Individual Defendants knew that Plaintiffs and the class would reasonably rely on
18 their representations and omissions, which would cause the Plaintiffs and the class
19 joining the fraudulent endless chain scheme and purchasing the products, and
20 Plaintiffs did in fact reasonably rely upon such representations and omissions.

21 130. Indeed, had Plaintiffs and the class known that Nerium and its
22 Individual Defendants were promoting an endless chain, they would not have
23 become Nerium Brand Partners in the first place and, if learned after becoming a
24 distributor, they would not have purchased Nerium products thereafter.

25 131. Had Plaintiffs and the class known that Nerium was promoting a
26 “business opportunity” that did not exist except for a select few, they would not
27 have become Nerium Distributors in the first place and, if learned after becoming a
28 distributor, they would not have purchased Nerium products thereafter.

1 132. Finally, the fraudulent acts, representations and omissions described
2 herein were material not only to Plaintiffs and the class (as described in this
3 complaint), but also to reasonable persons.

4 133. Under California Business and Professions Code § 17200, a business
5 practice is “unfair” if it violates established public policy or if it is immoral,
6 unethical, oppressive or unscrupulous and causes injury which outweighs its
7 benefits.

8 134. For the reasons set forth herein and above, Nerium’s promotion and
9 operation of an unlawful and fraudulent endless chain, and its fraudulent
10 representations and omissions regarding its purported “business opportunity,” are
11 also unethical, oppressive, and unscrupulous in that Nerium is and has been duping
12 Plaintiff and the class out of billions, or at least hundreds of millions, of dollars.

13 135. Nerium’s actions have few, if any, benefits. Thus, the injury caused to
14 Plaintiff and the class easily and dramatically outweigh the benefits, if any.

15 136. Defendants should be made to disgorge all ill-gotten gains and return to
16 Plaintiff and the class all wrongfully taken amounts.

17 137. Finally, Defendants’ unlawful, fraudulent and unfair acts and omissions
18 will not be completely and finally stopped without orders of an injunctive nature.
19 Under California Business and Professions Code section 17203, Plaintiffs and the
20 class seek a judicial order of an equitable nature against all Defendants, including,
21 but not limited to, an order declaring such practices as complained of to be unlawful,
22 fraudulent and unfair, and enjoining them from further undertaking any of the
23 unlawful, fraudulent and unfair acts or omissions described herein.

24 **COUNT IV**

25 **False Advertising - California Business and Professions Code § 17500, et seq.**

26 (Plaintiffs on behalf of themselves and the Class Against All Defendants including

27 DOES 1 through 10)
28

1 138. Plaintiffs reallege all allegations as if fully set forth herein, and
2 incorporate previous allegations by reference.

3 139. All claims brought under this Fourth Count that refer or relate to the
4 false, untrue, fraudulent or misleading endless chain of Defendants are brought on
5 behalf of Plaintiffs and the Class.

6 140. All claims brought under this Fourth Count that refer or relate to the
7 false, untrue, fraudulent or misleading statements of income are brought on behalf of
8 Plaintiffs.

9 141. All claims brought under this Fourth Count that refer or relate to the
10 false, untrue, fraudulent or misleading statements of income are brought on behalf of
11 Plaintiffs and the Class.

12 142. Defendants' business acts, false advertisements and materially
13 misleading omissions constitute false advertising, in violation of the California
14 Business and Professions Code § 17500, *et seq.*

15 143. Defendants engaged in false, unfair and misleading business practices,
16 consisting of false advertising and materially misleading omissions regarding the
17 purported "business opportunity," and the "health benefits" likely to deceive the
18 public and include, but are not limited to, the items set forth in the factual
19 background of this Complaint. Nerium knew, or should have known, that the
20 representations about the business opportunity of Nerium were misleading in nature.

21 144. Because of Defendants' untrue and/or misleading representations,
22 Defendants wrongfully acquired money from Plaintiff and the class members to
23 which they were not entitled. The Court should order Defendants to disgorge, for the
24 benefit of Plaintiff and all other Nerium Distributors in the class who signed an
25 agreement with Nerium governed by California law their profits and compensation
26 and/or make restitution to Plaintiff and the Class.

27 145. Under California Business and Professions Code Section 17535,
28 Plaintiffs and the class seek a judicial order directing Defendants to cease and desist

1 all false advertising related to the Defendants' illegal endless chain scheme, and
2 such other injunctive relief as the Court finds just and appropriate.

3 146. Because of Defendants' untrue and/or misleading representations,
4 Defendants wrongfully acquired money from Plaintiff and the class members to
5 which they were not entitled. The Court should order Defendants to disgorge, for the
6 benefit of Plaintiff and all other Nerium Distributors in the class who signed a
7 Distributor Agreement with Nerium their profits and compensation and/or make
8 restitution to Plaintiff and the class.

9 147. Under California Business and Professions Code Section 17535,
10 Plaintiff and the class seek a judicial order directing Defendants to cease and desist
11 from all false advertising related to the Defendants' illegal scheme, and such other
12 injunctive relief as the Court finds just and appropriate.

13 **COUNT V**

14 **(RICO 18 U.S.C. § 1961(5), 1962(c))**

15 (Plaintiffs on behalf of themselves and the Class Against All Defendants including
16 DOES 1 through 10)

17 148. Plaintiffs reallege all allegations as if fully set forth herein, and
18 incorporate previous allegations by reference.

19 149. RICO prohibits the following conduct: It shall be unlawful for (1) any
20 person (2) employed by or associated with (3) any enterprise (4) engaged in, or the
21 activities of which affect, interstate or foreign commerce, (5) to conduct or
22 participate, directly or indirectly, in the conduct of such enterprise's affairs (6)
23 through a pattern of racketeering activity or collection of unlawful debt. 18 U.S.C. §
24 1961.

25 150. Section 1962(c) makes it "unlawful for any person employed by or
26 associated with any enterprise engaged in, or the activities of which affect,
27 interstate . . . commerce, to conduct or participate, directly or indirectly, in the
28 conduct of such enterprise's affairs through a pattern of racketeering activity."

1 151. RICO requires that a “person” violate its provisions.” 18 U.S.C. §
2 1962(c-d). A RICO “person” includes any individual or entity capable of holding a
3 legal or beneficial interest in property.” 18 U.S.C. § 1961(3). A RICO person can
4 be either an individual or a corporate entity. All Defendants named in this count are
5 RICO persons.

6 152. Defendants Jeff, Renee, Amber, Shouhed, Hefernan have acted as an
7 “association-in-fact” for a common purpose, have and maintained relationships
8 between and among each other (and nonparties), and the association-in-fact has a
9 longevity sufficient to permit those associates to pursue the enterprise’s purpose the
10 establishment and perpetuation of an unlawful pyramid scheme in which hundreds
11 of thousands of people have lost money. The operation and management of the
12 association in fact was generally led, at various times, by Defendants Jeff, Renee,
13 and Amber. The individual promoter defendants Shouhed and Hefernan generally
14 operated certain field aspects of the enterprise, taking direction from Jeff, Renee,
15 and Amber. Jeff, Renee, and Amber provided funds to enable the association to
16 grow and management and strategic advice to grow and expand the pyramid
17 scheme. Later, Jeff, Renee, and Amber provided financial incentives to certain
18 recruiters.

19 153. The “association-in-fact” began in 2011 and has continued to today.
20 Each of the Defendants charged in Count V has been a part of the association-in fact
21 as follows: Jeff: 2011-present; Renee: 2012-present; Amber: 2012-present;
22 Shouhed: 2012-present; Hefernan: 2012-present.

23 **A. Nerium and The Individual Defendants Make False Claims As To The**
24 **Nerium Opportunity**

25 154. In 2011 Jeff formed Nerium, and shortly thereafter, named his wife
26 Renee, and his daughter Amber, as key top executives of the company.

27 155. Nerium broadcasts that you can receive a “live better bonus of
28 \$150,000.”

1 156. “With Nerium International, you can have everything.” Further, “[o]ur
2 program allows you the life-changing career to tailor your career to unlimited
3 success, your way... They incentivize you to become the best person you can be... I
4 quickly earned my Lexus... I got an i-pad bonus.. You can pay off your student
5 loans... I wanted to retire my parents.”

6 157. You “get paid to party.” The representation “[i]f you want your future
7 on your terms, get with your referring brand partner for more information.”

8 158. CEO Jeff Olson claims, “We have people who’ve earned their iPads,
9 they’ve earned their cars, earned dream vacations, great incomes, six figure
10 incomes, people making adult incomes, people making incomes that put them in the
11 top 5 percentile of the United States.”

12 159. While Nerium’s website professes that it provides its distributors with
13 financial freedom, its outdated, hard-to-find, U.S. 2013 Income Declaration is
14 misleading affirmatively, and by omission.

15 160. Nerium represents: “I wanted to be able to get out there and retire my
16 parents. I wanted to be able to go out there and make an impact in their life, and
17 Nerium gave me that opportunity.”

18 161. Nerium further represents: “[w]hen you don’t worry about
19 money anymore, you don’t have to stress out over the bills, you know it’s about the
20 choices you have – the freedom you have.”

21 162. “Nerium has just completely changed my life; everything about my life
22 has gotten completely 100% better. We recently purchased our dream home and it’s
23 absolutely gorgeous.”

24 163. Each of the statements made by Nerium in the preceding eight were
25 false and misleading.

26 **B. Rico Enterprise**

27 164. A defendant can be both a RICO “person” and part of another RICO
28 “enterprise.” Plaintiffs and the class allege the following:

1 (a) each Defendant is a RICO “person.”

2 (b) each individual defendant, i.e., each person, combination of
3 persons or combination one or more person and an entity as defined
4 above, is a RICO “person.”

5 (c) the Defendants named in this Count are an “enterprise,” (e.g., a de
6 facto corporation acting as a single legal entity, or, alternatively, an
7 association in fact).

8 165. There was an identifiable hierarchy and framework within the
9 enterprise. It is directed by Jeff, Renee, and Amber, to whom the remaining
10 Defendants named in this Count report.

11 **C. All Defendants Are “Employed By Or Associated With” The Rico**
12 **“Enterprise”**

13 166. Under Section 1962(c), a defendant must be “employed by or
14 associated with” the RICO enterprise. Section 1962(c) operates equally to both
15 “insiders” and “outsiders” who participate directly or indirectly in the conduct of the
16 enterprise’s affairs through a pattern of racketeering activity. All Defendants named
17 in this Count are employed by or associated with the enterprise, as set forth in detail
18 previously.

19 167. They conduct and participate in the operation or management of the
20 pyramid scheme through a pattern of racketeering activity, by conducting the affairs
21 and supporting the acts of the pyramid scheme. Jeff, Renee, and Amber use the
22 assets of Nerium to direct, in whole or part, the affairs of the pyramid scheme,
23 including the operation of the pyramid scheme and the distribution of unlawful
24 profits to individuals associated with the scheme. Jeff, Renee, and Amber control
25 and direct the websites, web presentations, events, sponsored conventions and
26 speeches of each of them, and the dissemination of video of same, and the individual
27 promoter Defendants named in this Count. Shouhed and Hefernan joined this part
28

1 of the operation in approximately 2013. They then have an ascertainable structure
2 separate and apart from the pattern of racketeering activity.

3 168. Olson has directed the Company to disburse over time more than \$3.5
4 million in Company funds to an entity called FARC, LLC. In the spring of 2015,
5 Nerium's CFO, Lori Jones, discovered a collection of these mysterious payments (in
6 \$15k and \$150k increments) scattered and buried in a Company ledger of over
7 100,000 entries.

8 169. After this discovery, Lori Jones and Joe Nester asked Jeff Branch (the
9 Company's Chief Financial Officer) to explain who FARC was and what services or
10 goods it was providing to the Company. Mr. Branch stated that the expenditures
11 were not something Nerium should concern itself with. He directed further inquiry
12 to the Company's General Counsel, Eric Haynes. When asked the same question,
13 Mr. Haynes responded that FARC was engaged for "business development
14 purposes," and refused to explain more. In fact, Olson bound the Company to a
15 secret agreement with his long-time friend Steve Bright, to transfer enormous wealth
16 from the Company to Bright, through FARC. FARC was created on August 26,
17 2011 for the apparent purpose of receiving these payments. That same day, Bright's
18 wife Vicki entered into the agreement whereby Olson purportedly (1) transferred
19 3% ownership in the Company to FARC; (2) agreed to pay FARC 5% of the
20 revenues Olson received from the sale of promotional items or sales tools under the
21 Company Agreement; and (3) agreed to retroactively place a phony sales
22 distributorship at the top of the Company's sales pyramid, whereby FARC would be
23 paid commissions as one of the top earning sales distributors without actually
24 performing services as a sales distributor for the Company. In exchange for these
25 lucrative promises of Company cash, FARC tendered just "ten dollars and other
26 good and valuable consideration."

27 170. The other promoters are also "employed by or associated with" each
28 other and the remaining Defendants for purposes of RICO. They conduct and
participate in the operation or management of the pyramid scheme through a pattern

1 of racketeering activity, by conducting the affairs and supporting the acts of the
 2 pyramid scheme. They receive payments and benefits for operating at or near the
 3 top of the “downline” pyramid, engage in wholesale recruiting at the direction of
 4 Nerium. Jeff, Renee, Amber, communicate regularly with Nerium, regarding
 5 personal appearances at recruiting conventions, operate websites that induce
 6 innocent people to engage in the illegal pyramid, and cooperate with the other
 7 Defendants to lend their names to promotional materials, make false statements, and
 8 in some instances, appear in the internet reality series. While appearing as
 9 ostensible “independent” distributors for purposes of convincing innocent recruits to
 10 join the “business opportunity,” each of them takes direction from and is in contact
 11 with each other and Jeff Renee, and Amber.

12 **D. All RICO Persons Are Distinct From The RICO Enterprise**

13 171. RICO requires the involvement of a RICO “enterprise.” 18 U.S.C. §
 14 1964 (a-d). An “enterprise” includes any individual, partnership, corporation,
 15 association, or other legal entity, and any union or group of individuals associated in
 16 fact although not a legal entity.” 18 U.S.C. § 1961(5).

17 172. The enterprise itself is not the liable entity, rather it is the RICO person
 18 who conducts the affairs of the enterprise through a pattern of racketeering activity.
 19 Nerium and the individual Defendants described in this complaint are distinct from
 20 each other. The individual Defendants are distinct from the corporate defendant. The
 21 corporate Defendant is distinct from the RICO enterprise because it is functionally
 22 separate, performs different roles within the enterprise and uses its separate legal
 23 incorporation to facilitate racketeering activity. For example, Nerium operates
 24 legally in part by selling its products to consumers without operating as a pyramid
 25 scheme.

26 173. Besides paying the salaries of Amber and Renee, Jeff and Nerium also
 27 created phony distributorship positions for them, placing them at the top of the
 28 pyramid of brand partners where they could receive monthly “commission” checks

1 as leading distributors – without actually distributing anything. To hide these
2 payments, phantom distributor names were entered into the Nerium accounting
3 system – for Amber, the distributorship was called “Gator Marketing,” for Renee,
4 the distributorship was called “Chill Development.” Secret payments to Gator
5 Marketing exceeded \$1,000,000 per year and payments to Chill Development
6 exceeded \$700,000 per year. Renee also received a payment of \$347,000 which was
7 booked as a bridge loan for “Stone & Bruce.”

8 **E. The Defendants Engaged In Activities Which Affect Interstate**
9 **Commerce**

10 174. Each of the Defendants named in this Count engaged in, and/or each
11 others’ activities affect, interstate or foreign commerce. The pyramid scheme has
12 operated in the United States, and originated domestic business contracts with
13 people living in Japan, Columbia, and Hong Kong. Most recently Nerium is
14 marketing and creating domestic business opportunities for those residing in
15 Australia.

16 **F. The Defendants Participated In The Conduct of the Enterprise’s**
17 **Affairs**

18 175. Each of the Defendants named in this Count conducted, or participated
19 directly or indirectly, in the conduct of such enterprise’s affairs as set forth above.

20 **G. The Defendants Engaged In A “Pattern of Racketeering Activity”**
21 **Over An Extended Period of Time With A Threat of Repetition**
22 **Into The Future**

23 176. RICO requires a “pattern of racketeering activity.” A “pattern of
24 racketeering activity” is one that is performed by at least two acts of racketeering
25 activity, or violations of a “predicate” offense (an act “indictable under any of”
26 certain provisions of” 18. U.S.C. § 1961(1)(D)). *See* 18 U.S.C. § 1961(5). A
27 “pattern of racketeering activity” can be a past conduct that by its nature projects
28 into the future with a threat of repetition. It can also be conduct over a closed period

1 through a series of related predicates extending over a substantial period. Both of
2 these apply here.

3 177. The Defendants' pattern of racketeering activity is well-established and
4 has continued from 2011 to the present and intends to continue into the future. The
5 Defendants have taken every imaginable step to sell the pyramid program to
6 Business Partners and potential Business Partners. They each also expect to
7 continue to receive income from the pyramid scheme. With each new person
8 recruited, the Defendants increase the value of their control of the pyramid scheme.
9 The Defendants have stated their intentions to continue to grow the pyramid
10 throughout the United States, and have expanded. They have announced an
11 intention to market to other persons in 2017. It is certain that their conduct is a
12 continuing threat due to their racketeering activities.

13 **H. Defendants Have Used And Caused To Be Used Fraudulent Mail**
14 **and Wire Communications In Interstate Commerce, 18 U.S.C. §**
15 **1341 AND 18 U.S.C. § 1343**

16 178. Mail and wire fraud are enumerated predicate acts that can constitute
17 RICO "racketeering activity" under Section 1961(1)(D).

18 179. Mail fraud occurs when an individual devises a plot to defraud and
19 subsequently uses the mail in furtherance of it. 18 U.S.C. § 1341.

20 180. The Defendants named in this Count have transmitted, caused to be
21 transmitted or invited others to transmit marketing material and income disclosure
22 materials, by mail or private or commercial carriers, such as UPS, for the purpose of
23 executing their scheme or artifice to defraud in violation of RICO. Likewise, they
24 have distributed promotional literature, statements, checks, and other mailings all
25 between 2011 and the present by mail. Without limitation, each statement sent
26 monthly to an Brand Partner distributor is a mailing and an act of mail fraud, and
27 each promotional literature sent by U.S. Mail is a mailing and an act of mail fraud.
28

1 181. Wire fraud occurs when an individual devises a plot to defraud and
2 subsequently uses wire means in furtherance of it. 18 U.S.C. § 1343. The defendants
3 have used the Internet since 2011 to disseminate, publish and spread the pyramid
4 scheme throughout the United States and to Hong Kong, Japan and Columbia for the
5 purpose of executing their scheme or artifice to defraud in violation of RICO. Thus,
6 the Defendants have transmitted, caused to be transmitted and invited others to
7 transmit, by means of wire in interstate commerce, writings, signs, signals, pictures,
8 or sounds for the purpose of executing their scheme or artifice to defraud in
9 violation of 18 U.S.C. §1343.

10 182. Without limitation, for example, each transmission of a video to be
11 posted on YouTube, Vimeo, Facebook, Wechat, Google, Pinterest, Instagram,
12 Linkedin, or through Twitter, or establishment of a website to disseminate
13 information about the pyramid scheme or transmission of signals, pictures or
14 information to such website is a separate act of wire fraud.

15 183. Defendants committed at least two predicate acts of mail and/or wire
16 fraud relevant to this Count. These, along with factual allegations against other
17 Defendants, are described throughout this Complaint.

18 184. Each of the Defendants named in this Count acted with requisite intent
19 to establish, perpetuate and/or carry out the pyramid scheme to defraud. Each
20 Defendant named in this Count acted with either specific intent to defraud or with
21 such recklessness with respect to the false or misleading information mailed or
22 wired in furtherance of the pyramid scheme as to constitute requisite scienter to
23 commit mail and wire fraud.

24 185. Nerium represents you can earn “\$10,000 per month just for having
25 fun.”

26 186. That scienter can be inferred from, among other things at least the
27 following: (a) Various third parties and business partners of Nerium have asserted
28 publicly and in litigation, that Nerium is a pyramid scheme during its short history,

(b) many consumers have complained to the FTC that Nerium constitutes an illegal pyramid scheme (c) promoters and marketers of Nerium, including Batchelorette star Michael Turnbull have stated in a “Current Affair” television show aired in Australia in 2016: “I certainly wouldn’t intentionally get into a pyramid scheme if that’s what this business [Nerium] is.” (d) Defendant Jeff was directly involved in the financing and active management of the Nerium company and individually knew and/or recklessly disregarded that that the operation of that entity was an illegal pyramid scheme; (e) Jeff Olson is a veteran of the network marketing industry and was involved in multiple allegations of their companies operating as a pyramid scheme; (f) There is a network industry awareness that the FTC has closed down similar operations for being an illegal pyramid (for example BurnLounge, Vemma, Equinox and others) and (g) an awareness on the part of each of these Defendants that recruiting others into a particular sales scheme has been deemed by the FTC and courts to be an illegal pyramid scheme.

187. A number of the Individual Promoter Defendants are also in the separate business of assisting new recruits on how to themselves recruit others. Some of the individual Promotor Defendants use fake testimonials to market the products of Nerium. These Defendants therefore have for years had an opportunity to understand that their participation in the Nerium scheme is an illegal pyramid and/or recklessly disregarded the notion and consciously participated in an illegal pyramid scheme.

I. The Defendants’ Promotion of the Pyramid Is A Per Se Scheme To Defraud Under The Mail And Wire Fraud Statutes

188. The Defendants named in this Count have used a false and fraudulent scheme, or a scheme to defraud within the meaning of federal law, to harm Plaintiffs and the class. In all respects, these Defendants have conducted their affairs unlawfully, intentionally, willfully and with intent to defraud, that is, knowingly and with such specific intent to deceive as is in violation of the mail and wire fraud

1 statutes. They have done so in order to cause financial gain for themselves and for
2 others, all to the detriment of Plaintiffs and the class.

3 189. First, each Defendant named in this Count has promoted the pyramid
4 scheme that, by its very nature, is a per se scheme and artifice to defraud to obtain
5 money by false pretenses. As detailed in this complaint, all Defendants named in
6 this Count have promoted and successfully expanded the pyramid scheme to
7 victimize the named Plaintiffs and the class. Each of the enumerated acts of wire
8 and mail fraud in furtherance of the pyramid scheme is an act of racketeering.
9 Second, as part of the pyramid scheme, the Defendants named in this Count made
10 numerous false statements in furtherance of the scheme.

11 190. Examples of the falsity of these statements include: (a) creating and
12 disseminating the false impression that through the pyramid scheme, Business
13 Partners like Plaintiffs and the class can get “free” Lexus’, and/or can get a sizeable
14 monthly or “residual” income; (b) creating and disseminating the false impression
15 that the Business Partners program has enormous or unlimited income potential and
16 that the Business Partners can make enormous money as a result of participating as a
17 promoter for the program; (c) creating and disseminating the false impression that
18 the Business Partners’ is an opportunity that one can make money while partying.

19 191. Further, the Defendants created and disseminated the false impression
20 that there are many available persons who will want to purchase the age-defying
21 products and that the purchase of a Business Partner enrollment will enable the
22 purchaser to make money from legitimate sales. In reality, the defendants know that
23 sales of the age-defying products are made almost exclusively to people who are
24 promoters.

25 192. Further, the Defendants created and disseminated the false impression
26 that the success stories featured by Nerium are typical or, in some cases, even
27 possible when defendants knew that the persons portrayed were falsely portrayed,
28 persons portrayed were being paid (unreal) amounts of money for committing an

1 illegal activity and/or were assisted by the defendants in setting up a sufficiently
 2 large “downline” that the income generated was in fact large.

3 193. Third, as part of the pyramid scheme the Defendants named in this
 4 Count omitted material facts for the purpose of and with the intention of the
 5 fraudulent pyramid scheme by obtaining money from the victims. Examples of
 6 these omissions include: (a) failure to reveal that the multilevel marketing program
 7 and its Business Partner program are illegal pyramid schemes but instead propagate
 8 the statements and impression that it is a legal enterprise; (b) failure to reveal that
 9 under compensation plan that the majority of the Brand Partners have and likely will
 10 lose their money; (c) failure to disclose that many of the top Brand Partners earners
 11 paraded by the company (at company-sponsored spectacles and through other
 12 publicly disseminated events, videos, documents, and other media) as examples of
 13 what Brand Partners can hope to attain through following the Nerium
 14 compensation plan were in fact already well established salespeople for other
 15 network companies who were recruited to bring large, preexisting “downlines” by
 16 the company and were placed in their positions, aided in their attainment of their
 17 Nerium ranks, and/or otherwise compensated beyond what is paid to ordinary
 18 Brand Partners under the Compensation Plan; (d) failure to reveal that the company
 19 knowingly spread unreal and misleading accounts and claims of the success of its
 20 upper level executives, all in an effort to attract new Brand Partners, but avoid
 21 disclosing a direct connection between the statements and Nerium.

22 **J. Plaintiffs and the Classes Have Proximately Suffered RICO Injury**
 23 **To Business**

24 194. A “violation” of RICO is committed if “individuals and entities,” use
 25 the mails or interstate wire facilities in the execution of “any scheme to defraud.” 18
 26 U.S.C. §§ 1341, 1343, Sections 1961(1) (B), 1962. Sections 1964 (a), (c) and (d)
 27 authorize persons “injured” in their “business or property,” “by reason of” RICO’s
 28

1 “violation” to sue for appropriate redress, including equity relief, treble damages
2 and attorneys’ fees.

3 195. Each of the Plaintiffs (and the class sought to be certified) suffered a
4 loss of money composed of the cost they paid to become an IP, together with the
5 website fees, administrative fees, and the cost of merchandise purchased as samples
6 and for purposes of operating the alleged “business opportunity,” and the amount
7 they recovered as commissions or other payments. Jia has lost over \$1,200, while
8 Sormillon lost in excess of \$600. The losses were proximately caused by the actions
9 described in this Count, and may be presumed from, among other things, the
10 presumption that no one would knowingly join an illegal pyramid scheme.

11 196. The precise amount lost by the class sought to be certified has not yet
12 been determined but is believed to be significant. It is believed that each of the
13 unwitting participants in the pyramid scheme sought to be certified as a class has
14 lost \$50 to well over \$5,000 as a result of purchasing their Brand Partner
15 distribution rights. Upon information and belief, the precise amounts that each and
16 every participant in the pyramid scheme has spent on (1) costs associated with the
17 Brand Partner “business opportunity” and (2) has received in commissions or
18 bonuses or other payments from Nerium as a result has been tracked, maintained
19 and accounted for by Nerium through a proprietary software database. Thus, the
20 precise loss of every class member is easily capable of being ascertained in this
21 litigation, and the total business injury capable of being computed for the class.

22 197. The predicate acts set forth in this Count each were mailings and/or
23 wire transmission of material in furtherance of the promotion of the pyramid
24 scheme. Each of these predicate acts was intended to falsely convey the impression
25 to people like Plaintiffs that participation as a Nerium Brand Partners was legal; that
26 they had a reasonable opportunity to make money; that people just like them were
27 able to make generous income; and that the commissions or bonuses they would
28 receive would come from the sale of desirable product. The loss suffered by the

1 Plaintiffs and the class was foreseeable and a direct result of the establishment,
2 promotion, and expansion of the pyramid scheme by the Defendants named in this
3 Count. A pyramid scheme depends on continued expansion by continual recruiting
4 of innocent people who do not realize that the only way in which they can achieve
5 the benefits represented by the pyramid scheme's promoters is to recruit and
6 victimize other innocent people into joining. In reality, like all pyramid schemes,
7 the Compensation Plan and all aspects of the promotion of the pyramid scheme were
8 based on recruiting over product sales, and depended on the known existence of
9 money-losers (like the Plaintiffs and the class) to pay the small group of "winners"
10 inherent in any pyramid scheme. There is a clear causal connection between the
11 promotion and recruiting predicate acts alleged above and the injury suffered by the
12 Plaintiffs and the class.

13 198. The predicate acts attributed to Nerium, Jeff, Renee, and Amber, also
14 include the creation and dissemination of the Compensation Plan. Under the Nerium
15 Compensation Plan, as set forth above, innocent participants could only make
16 money by recruiting others who in turn would recruit others. This was a necessary
17 feature of the Plan, understood as such by all of the Defendants named in this Count.
18 It was the goal of each of these Defendants that Plaintiffs subscribe, by the payment
19 of money to Nerium, to the Compensation Plan. The payment of bonuses and
20 commissions to promoters who were recruiters of participants in the pyramid
21 scheme, like the Plaintiffs and the class, was an intended part of the Nerium
22 Compensation Plan. Each of the named Plaintiffs were placed by Nerium in a
23 pyramid "downline" whose top slot was occupied by Jeff. Each of the payments
24 made by the Plaintiffs to purchase Brand Partner distribution rights and product, as
25 well as payments they made for website usage, resulted in payment of a bonus or
26 commission payment that was made, directly or indirectly, to Nerium, Jeff, Renee,
27 and Amber, directly authorized and/or approved of the dissemination of the Nerium
28 compensation plan that was made a part of the Brand Partner distribution rights

1 purchased by the Plaintiffs. The dissemination of the Nerium compensation plan,
2 together with predicate acts that purported to falsely emphasize the features of the
3 compensation plan (for example, without revealing that under the plan there would
4 be many more “losers” than “winners”) was in furtherance of the scheme. Plaintiffs
5 lost money by participating in the compensation plan. But for the illegal nature of
6 the bonus and commission payments set forth by the compensation plan, Plaintiffs
7 and others would not have lost money. Plaintiffs’ losses thus were a direct and
8 proximate cause of their intended participation in the compensation plan authored
9 and/or approved by each of these Defendants.

10 199. A pyramid scheme depends on recruitment of innocent people. The
11 predicate acts attributed to the promoter Defendants are primarily those that concern
12 the promotion of the scheme and luring innocent people to join the business
13 opportunity. The promoters had an incentive to spread the word. The payment of
14 bonuses and commissions to promoters who were recruiters of more participants
15 was part of the scheme. In 2013 to 2016, many of the other promoters were named
16 a directors eligible to collect revenue from company-wide sales, including sales
17 made to new recruits like Jia and Sormillon. It is believed that these individuals
18 were also Plaintiffs’ “uplines,” and therefore these individuals also received a
19 commission payment, either directly by virtue of being in Plaintiffs’ “upline” or
20 indirectly, from the money paid by Plaintiffs. But for the illegal nature of the bonus
21 and commission payments set forth by the “business opportunity” and the recruiting
22 materials, ads or promotions made by these Defendants, directed to Plaintiffs and
23 members of the class who were invited to meetings such as those attended by the
24 Plaintiffs, Plaintiffs and others would not have lost money. The dissemination of the
25 Nerium “business opportunity,” by these Defendants together with predicate acts
26 that purported to spread the impression that joining the Nerium “business
27 opportunity” or that resulted in the recruitment of Plaintiffs, directly or indirectly,
28 proximately caused Plaintiffs’ and the class losses.

1 200. Jeff/Renee/Amber: (1) serving as the co-founders and principal creators
2 of the pyramid scheme, (2) creating and/or approving the creation of the
3 Compensation Plan which pays primarily for recruiting, (3) creating and
4 disseminating countless promotional materials, videos, and public appearances
5 designed to further and expand the pyramid scheme in the United States and abroad,
6 (4) making contractual arrangements with third persons to provide capital to expand
7 the pyramid scheme and to lend the scheme an air of legitimacy, (5) making deals
8 with professional network marketers to pay them hidden inducements and/or assign
9 them “downlines” as an inducement to further the expansion of the pyramid scheme,
10 (6) acting as the “top” distributor and accepting tens of millions of dollars as gains
11 from the pyramid scheme.

12 201. Shouhed/Hefernan: (1) accepting payments and/or other inducements,
13 including being given or assigned a “downline” by Jeff/Renee/Amber upon
14 becoming a Nerium distributor; (2) performing recruiting acts on behalf of Nerium
15 and the enterprise when he knew or reasonably should have known that he was
16 promoting a pyramid scheme, (3) appearing in print and electronic promotions to
17 give legitimacy to the idea that anyone could achieve six- and seven- figure success
18 in the “business opportunity” when they knew that their own success and financial
19 payments were the result of hidden arrangements that would not be made available
20 to persons who were being recruited.

21 202. The Defendants named in this Count used false and fraudulent means
22 and conducted their affairs unlawfully, intentionally, willfully and with the intent to
23 defraud, for their own financial gain and benefit and for the financial gain and
24 benefit of others, all to the detriment of Jia, Sormillon, and others that purchased the
25 Brand Partner program.

26 203. Each of the Defendants named in this Count has violated Section
27 1962(c) and is liable, jointly and severally, for the business injury caused to the
28 Plaintiffs and the class by his or her actions.

COUNT VI

**(RICO 18 U.S.C. § 1962(c) AND ARE IN VIOLATION OF 18 U.S.C. §§
1961(5), 1962(d))**

(Plaintiffs on behalf of themselves and the Class Against All Defendants including
DOES 1 through 10)

204. Section 1962(d) makes it “unlawful for any person to conspire to
violate any of the provisions of subsection (a), (b), or (c) of this section.”

205. Plaintiffs re-state the previous paragraphs as if fully set forth here.

206. Each of the Defendants named in this Count have participated in a
conspiracy to violate Count Five.

207. Each of the Defendants named in this Count has participated in the
pyramid scheme and their participation is necessarily a combination of more than
two individuals.

208. The roles of all of the Defendants named in this Count are set forth in
Count V.

209. Defendants’ and nonparty entities’ creation, support or maintenance of
the pyramid scheme is illegal.

210. The Defendants named in this Count had a meeting of the minds on the
object or course of action, specifically to create, support and maintain the pyramid
scheme for their financial benefit as evidenced by each Defendant’s voluntary and
knowing participation in the pyramid scheme. These agreements and understandings
are described in Count V.

211. Each of the Defendants named in this Count and others have committed
one or more overt acts to achieve or further the unlawful objects and purposes of the
pyramid scheme detailed herein. They include the following:

212. Jeff/Renee/Amber: (1) serving as the co-founders and principal creators
of the pyramid scheme, (2) creating and/or approving the creation of the
Compensation Plan which pays primarily for recruiting, (3) creating and

1 disseminating countless promotional materials, videos, and public appearances
2 designed to further and expand the pyramid scheme in the United States and abroad,
3 (4) making contractual arrangements with third persons to provide capital to expand
4 the pyramid scheme and to lend the scheme an air of legitimacy, (5) making deals
5 with professional network marketers to pay them hidden inducements and/or assign
6 them “downlines” as an inducement to further the expansion of the pyramid scheme,
7 (6) acting as the “top” distributor and accepting tens of millions of dollars as gains
8 from the pyramid scheme.

9 213. Shouhed/Hefernan: (1) accepting payments and/or other inducements,
10 including being given or assigned a “downline” by Jeff/Renee/Amber upon
11 becoming a Nerium distributor; (2) performing recruiting acts on behalf of Nerium
12 and the enterprise when he knew or reasonably should have known that he was
13 promoting a pyramid scheme, (3) appearing in print and electronic promotions to
14 give legitimacy to the idea that anyone could achieve six- and seven- figure success
15 in the “business opportunity” when they knew that their own success and financial
16 payments were the result of hidden arrangements that would not be made available
17 to persons who were being recruited.

18 214. The Defendants named in this Count used false and fraudulent means
19 and conducted their affairs unlawfully, intentionally, willfully and with the intent to
20 defraud, for their own financial gain and benefit and for the financial gain and
21 benefit of others, all to the detriment of Jia, Sormillon and others that purchased the
22 Brand Partners. These acts, intent and losses are set forth in Count V.

23 215. Each of the Defendants named in this Count has violated Section
24 1962(c) and is liable, jointly and severally, for the business injury caused to the
25 Plaintiffs and the class by his or her actions.

26 **COUNT VII**
27 **(Federal Securities Fraud)**
28

(Plaintiffs on behalf of themselves and the Class Against All Defendants including
DOES 1 through 10)

149. Plaintiffs reallege all allegations as if fully set forth herein, and
incorporate previous allegations by reference.

150. In the alternative to Counts Five and Six, and without prejudice to their
position that Counts Five and Six are not preempted by the PSLRA, Plaintiffs in
Count Seven allege violations of the securities laws.

151. Only to the extent Defendants contend that Plaintiffs' purchases of
starter kits, payment of fees, and purchases of Nerium products constitute
investments in unregistered securities (the sale of which would be a past and
continuing violation of federal securities laws), and only if Defendants are
successful in obtaining a dismissal for judgment against Plaintiffs' RICO claims on
the grounds that the PSLRA preempts their RICO claims, Plaintiffs contend that
their purchases of starter kits, payment of monthly fee, and purchases of Nerium
products constitute investments in securities.

152. Nerium made numerous material omissions in its Policies regarding
retail sales to the Plaintiffs. Nerium represented that retail sales were a significant
part of Defendants' revenues. Also Nerium represented as follows:

- You can receive a "live better bonus of \$150,000."
- "With Nerium International, you can have everything." Further, "[o]ur program allows you the life-changing career to tailor your career to unlimited success, your way... They incentivize you to become the best person you can be... I quickly earned my Lexus... I got an i-pad bonus... You can pay off your student loans... I wanted to retire my parents."
- You "get paid to party." The representation "[i]f you want your future on your terms, get with your referring brand partner for more information."

- 1 • CEO Jeff Olson claims, “[w]e have people who’ve earned their iPads,
2 they’ve earned their cars, earned dream vacations, great incomes, six
3 figure incomes, people making adult incomes, people making incomes
4 that put them in the top 5 percentile of the United States.”
- 5 • “When you don’t worry about money anymore, you don’t have to stress
6 out over the bills, you know it’s about the choices you have – the
7 freedom you have.”
- 8 • “Nerium has just completely changed my life; everything about my life
9 has gotten completely 100% better. We recently purchased our dream
10 home and it’s absolutely gorgeous.”

11 153. Further, Nerium made false income disclosures in 2013 that were
12 misleading affirmatively, and by omission.

13 154. Nerium also made misrepresentations to Plaintiffs (affirmatively and by
14 omission) in the Compensation plans attached hereto as Exhibit A and Exhibit B,
15 respectively, as well as the guide attached hereto as Exhibit D.

16 155. These statements are misleading because they fail to inform
17 Distributors that “retail sales,” particularly as defined in the Policies, are not a true
18 viable way of earning income because Brand Partners are extremely unlikely to
19 make significant “retail sales,” and because the only realistic way to make money in
20 the Nerium scheme is through recruiting.

21 156. Nerium made material omissions in its Policies regarding Brand
22 Partners’ ability to earn money. In the Policies, Nerium informed its Brand Partners
23 that they do not even need to be good at sales, and they can still earn money.

24 157. This statement is misleading because it fails to inform Brand Partners
25 that very few Brand Partners are likely to earn any profit from participating in
26 Nerium, regardless of how much work they put in and regardless of what part of the
27 country they live in.

28 158. By making affirmative statements regarding retail sales and the ability

1 of Brand Partners to earn income, Nerium undertook an affirmative obligation to
2 make the disclosures necessary to make such statements not misleading.

3 159. Nerium made these omissions knowing that doing so was false and
4 misleading. Nerium benefitted in a concrete and substantial way from the operation
5 of the pyramid scheme, the recruitment of new Brand Partners, and new Brand
6 Partner's reliance on Nerium's omissions.

7 160. Nerium made these omissions with the specific intent that Brand
8 Partners rely on them.

9 161. Plaintiffs' and the Class Members' reliance on the omissions may be
10 presumed.

11 **EIGHTH COUNT**

12 **Unjust Enrichment**

13 (Plaintiff on behalf of herself and the Classes Against Defendants Jeff, Renee,
14 Amber, including DOES 1 through 10)

15 162. Plaintiff and the classes repeat and re-allege every allegation above as
16 if set forth herein in full.

17 149. Unjust enrichment occurs when a Plaintiff confers a benefit to the
18 defendant, the Defendant accepts and retains the benefit, and Defendant does not
19 pay the Plaintiff the value of the benefit.

20 150. The Individual Defendants named in this Count have been unjustly
21 enriched at the expense of, and to the detriment of, Plaintiff and the members of the
22 class in that the financial benefits obtained by them came as a result of their
23 promotion of the unlawful pyramid scheme. The financial benefits they obtained
24 came from the Plaintiff and the members of the class, who unwittingly participated
25 in the pyramid scheme and naturally and inevitably lost money in the process. The
26 unjustly-obtained benefits are comprised of the following three categories of gains.

27 151. First, the Individuals Defendants named in this Count made contractual
28 agreements with each other and with other third-parties that depended on the success

1 of the pyramid scheme. The Individual Defendants took active steps to expand the
2 scope of the pyramid scheme, and increased the number of participants—and
3 therefore the number of inevitable “losers” in order to maximize the amounts each
4 would get. These Defendants were able to obtain payouts under the contracts on the
5 backs of the Plaintiffs.

6 152. Second, the Individual Defendants, together with their controlled
7 entities, their children, and other parties have each been enriched in significant
8 amounts as a result of the performance of their various illegal duties. Regardless of
9 in what year, each of the Individual Defendants were “upline” from the Plaintiff and
10 the class, and thus, as a matter of the compensation plan implemented by Nerium,
11 obtained bonuses and commissions, which were necessarily funded by a portion of
12 the Plaintiff’s (and the classes) purchase of distributorships, and purchase of
13 product. These payments were thus, directly funded by the Plaintiff by virtue of the
14 compensation system paying commissions and bonuses “upline” to promoters at the
15 top of the pyramid. The value of these benefits can be computed but is presently
16 unknown. But for the illegal Compensation Plan and the commission of the illegal
17 pyramid scheme, the Individual Defendants could not have obtained the funds that
18 came to them via the Compensation Plan.

19 153. Third, in addition to the unjust benefits, Jeff, Renee, and Amber have
20 obtained as a result of being upline at the top of the Nerium Pyramid, they have also
21 received a compensation in an amount equaling in the millions based on their
22 executive position in the pyramid scheme. The monies that they received, in part to
23 pay these salaries, came from Plaintiff’s (or the class) payments for the same
24 reasons as set forth above.

25 154. The revenue that resulted in these payments came directly from the
26 payments made by Plaintiff and the class. It would be unjust to permit these
27 Defendants to retain these ill-gotten gains.
28

PRAYER FOR RELIEF

The named Plaintiffs and the Plaintiffs' class and subclasses request the following relief:

- a. Certification of the class and subclasses;
- b. A jury trial and judgment against Defendants;
- c. Rescission of the agreements, invoices, open accounts, receipts, and open book accounts, upon which the scheme is based, and recovery of all consideration paid pursuant to the scheme, less any amounts paid or consideration provided to the participant pursuant to the scheme;
- d. Damages for the financial losses incurred by Plaintiffs and by the class and subclasses because of the Nerium and the Individual Defendants' conduct and for injury to their business and property;
- e. Restitution and disgorgement of monies;
- f. Temporary and permanent injunctive relief enjoining Nerium from paying its Distributors recruiting rewards that are unrelated to retail sales to ultimate users and from further unfair, unlawful, fraudulent and/or deceptive acts;
- g. The cost of suit including reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, Civil Code §1689.2, and otherwise by law;
- h. Punitive damages;
- i. Treble damages pursuant to RICO;
- j. For damages in an amount yet to be ascertained as allowed by law; and
- k. For such other damages, relief and pre- and post-judgment interest as the Court may deem just and proper.

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1 Dated: August 1, 2017 By: /s/ Blake J. Lindemann

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DEMAND FOR JURY TRIAL

Plaintiffs Helen Jia and Sarah Sormillon, on behalf of themselves, and those similarly situated, hereby request a jury trial on all matters so triable.

Dated: August 1, 2017

By: /s/ Blake J. Lindemann

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